

REMARKS

Upon entry of the amendment, claims 13 and 52-66 will be pending in the application. Claim 13 has been amended and new claims 52-66 added. Support for the claim amendments appears in the specification at, e.g., page 23, line 30, through page 24, line 21. No new matter has been added.

Rejections under 35 USC 112, first paragraph

Claim 13 is rejected for lack of enablement. The rejection is traversed to the extent it is applied to the claim as amended.

The examiner states on pages 3-4 of the Office Action that the claim:

encompasses any antibody which can bind to any polypeptide or protein. The instant specification, however, does not provide a written description or the guidance needed to produce an antibody which binds to any epitope other than an epitope which is contained within SEQ ID NO:2 of the instant application, which would include any epitope present in SEQ ID NO:12 or SEQ ID NO:16 presented therein.

Further in so far as this claim recites the limitation “TNF-R1-DD ligand protein”, which appears to be functionally defined, the limitation “comprising” and the limitation “a fragment thereof”, which can constitute nothing more than a single amino acid residue, it is a single means claim since it encompasses any antibody which can bind to any protein having the defining activities of a “TNF-R1-DD ligand protein”.

To address the Examiner’s concerns, Applicants have amended claim 13 to require that the recited antibody binds specifically to an epitope in the amino acid sequence of SEQ ID NO:2. Applicants submit one of ordinary skill in the art can practice the full breadth of the invention now claimed. Accordingly, reconsideration and withdrawal of the rejection for lack of enablement is requested.

Rejections under 35 USC 112, second paragraph

Claim 13 is rejected as indefinite for reciting “TNF-R1-DD ligand protein”. This rejection is believed moot with the amendment of claim 13 to require that the antibody bind to an epitope in the amino acid sequence of SEQ ID NO:2.

Claim 13 is separately rejected as indefinite for reciting a broad range together with a narrow range. Claim 13 has been amended so that it no longer recites SEQ ID NO: 12 and SEQ ID NO:16, which are longer amino acid sequences that include SEQ ID NO:2. Accordingly, this aspect of the rejection can be withdrawn.

Reconsideration and withdrawal of the rejection for lack of enablement is requested.

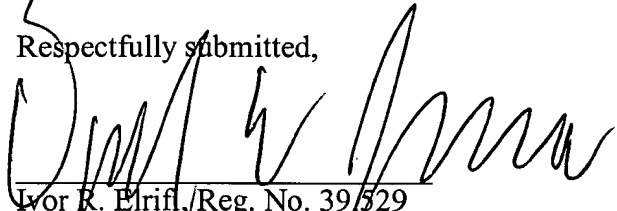
Rejection under 35 USC 102(b)

Claim 13 is rejected as anticipated by Hoop et al., US Patent No. 5,011,912 (“Hoop”). The rejection is traversed to the extent it is applied to the claims as amended.

Claim 13 has been amended to require that the antibody bind to an epitope in the amino acid sequence of SEQ ID NO:2. Hoop does not describe an antibody with this feature, and thus falls to describe the invention of claim 13. Reconsideration and withdrawal of the rejection for anticipation is requested.

A petition for extension of time accompanies this Amendment. The Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 22058-560CIP4DIV3CON.

Respectfully submitted,



Dated: July 28, 2004

Ivor R. Elrif, Reg. No. 39,529
David E. Johnson, Reg. No. 41,874
Attorneys for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623